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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91168835
Party	Defendant Chemence, Inc. Chemence, Inc. 185 Bluegrass Valley Parkway Alpharetta, GA 30005
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Submission	Answer
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Attachments	Answer To Notice Of Opposition.pdf (4 pages)(13339 bytes)

IN THE PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

JOHNSON & JOHNSON)	
)	
Opposer,)	
vs.)	Opposition No.: 91168835
)	
CHEMENCE, INC.)	Serial No.: 78/542,447
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

The Applicant, Chemence, Inc. (“Chemence”), by and through its counsel, hereby responds to the Notice of Opposition (the “Notice”) of the Opposer, Johnson & Johnson (“J & J”) as follows:

First Defense

In accordance with the numbered paragraphs of the Notice:

1.-3. Chemence lacks knowledge or information sufficient to form a belief about the truth of the averments of paragraphs 1 through 3 of the Notice.

4. Chemence admits only that the matters pled in paragraph 4, which are recorded in the public record speak for themselves. As to the truth of the remaining averments of paragraph 4 of the Notice, Chemence lacks knowledge or information sufficient to form a belief.

5. Chemence lacks knowledge or information sufficient to form a belief about the truth of the averments of paragraph 5 of the Notice, except Chemence expressly denies that BAND-AID® is a notorious or famous mark, that it enjoys overwhelming brand recognition or a valuable reputation, is a strong mark or imbued with acquired secondary meaning, all as pled by J & J in this paragraph. Chemence believes, and therefore avers, that whatever secondary meaning J & J’s asserted mark may have acquired in the past has since been dissipated.

6.-7. Chemence lacks knowledge or information sufficient to form a belief about the truth of the averments of paragraphs 6 through 7 of the Notice.

8. Chemence lacks knowledge or information sufficient to form a belief about the truth of the averments of paragraph 8 of the Notice, except Chemence expressly denies that BAND-AID® is a notorious or famous mark, that it enjoys overwhelming brand recognition or a valuable reputation, is a strong mark or imbued with acquired secondary meaning, all as pled by J & J in this paragraph. Chemence believes, and therefore avers, that whatever secondary meaning J & J's asserted mark may have acquired in the past has since been dissipated.

9. Chemence lacks knowledge or information sufficient to form a belief about the truth of the averments of paragraph 9 of the Notice.

10. Chemence admits only that the matters pled in paragraph 10, which are recorded in the public record speak for themselves. As to the truth of the remaining averments of paragraph 10 of the Notice, Chemence lacks knowledge or information sufficient to form a belief.

11. Chemence lacks knowledge or information sufficient to form a belief about the truth of the averments of paragraph 11 of the Notice.

12.-13. Chemence admits the matters pled in paragraphs 12 through 13 of the Notice.

14.-15. Chemence denies the matters pled in paragraphs 14 through 15 of the Notice.

16.-18. Chemence lacks knowledge or information sufficient to form a belief about the truth of the averments of paragraph 16 through 18 of the Notice regarding its products, their intended uses or their channels of trade.

19.-20. Chemence denies the matters pled in paragraphs 19 through 20 of the Notice.

Second Defense

21. J & J's Notice fails to state a claim upon which relief can be granted.

Third Defense

22. The conduct of J & J with respect to the putative mark constitutes laches, causes J & J to be estopped from asserting, and to have waived, the interests it seeks to advance in the instant proceeding.

Fourth Defense

23. Upon information and belief, the instant opposition has been brought with unclean hands, inasmuch as J & J knows, or has reason to know, that the asserted mark, BAND-AID®, is not confusingly similar with Chemence's mark under application, LIQUIDBOND+AID, but rather J & J is bringing this opposition primarily to divert, distract and delay introduction of a competitive adhesive product.

Fifth Defense

24. There are and have been significant third party uses of marks utilizing the term “AID” and said word is generic and/or descriptive.

Sixth Defense

25. Chemence's use of the word “AID” in its LIQUIDBOND+AID mark is a fair use.

Seventh Defense

26. J & J's use of the mark BAND-AID® is now generic and merely as a secondary brand for the products that are the subject matter of its Opposition, plus there is no confusion among the public with Chemence's mark LIQUIDBOND+AID.

Eighth Defense

27. Chemence reserves the right to assert additional defenses based upon discovery to be conducted or as they become known.

WHEREFORE, with respect to each defense stated above, and as to all such defenses,

Chemence requests that the Trademark Trial and Appeal Board (the "Board") grant judgment in its favor and against J & J, including such other relief as the Board deems proper, including but not limited to awarding Chemence its costs and attorneys fees for being put to this defense.

/Robert D. Wilson/

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Dated: August 31, 2006

CERTIFICATION of FILING and of MAILING

I certify that the foregoing Answer to Notice of Opposition in Opposition Proceeding No. 91168835, is being electronically filed with the Trademark Trial and Appeal Board of the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on this 31st day of August, 2006.

I further certify that also this day a copy of the aforementioned answer was served by U.S. Mail, first-class postage prepaid, upon counsel for the opposer, addressed as follows:

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/Robert D. Wilson/

Robert D. Wilson